

OCT 11 2010

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE WASHINGTON STATE GAMBLING COMMISSION

GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Suspension or
Revocation of the License to Conduct
Gambling Activities of:

Cheng K. Lee
Silverdale, Washington

LICENSEE

License No. 68-25199

OAH DOCKET NO. 2010-GMB-0043

WSGC No. CR 2010-00648

CORRECTED ORDER OF DEFAULT
(Failure to Appear at Hearing)

1. INTRODUCTION

On September 16, 2010, the Office of Administrative Hearings issued its Order of Default (Failure to Appear at Hearing) in this matter. It erroneously omitted information regarding the right of a defaulted party to move to vacate the default. That information is added at the end of this Corrected Order of Default. This Corrected Order of Default supersedes the prior Order.

2. ORDER SUMMARY

2.1. Licensee failed to appear for hearing and therefore Licensee defaulted. Based upon Licensee's default, the penalties specified in the Notice of Hearing in this matter shall be imposed, subject to further Gambling Commission action. Specifically, revocation of Licensee's gambling license shall be ordered.

2.2. Based upon Licensee's default, Licensee's Application for Hearing shall be dismissed.

3. HEARING

2.1. Administrative Law Judge: Steven C. Smith

2.2. Date of Hearing: August 17, 2010

2.3. Licensee: Cheng K. Lee of Silverdale, Washington

2.3.1 Licensee Representative: None of Record/None Appeared

2.4 Agency: Gambling Commission

2.4.1 Agency Representative: H. Bruce Marvin, Assist. Attorney General

3. STATEMENT OF THE CASE

- 3.1 A hearing was scheduled on this matter for August 17, 2010 at 9:00 am. The Notice of Hearing, dated and mailed to Licensee on July 28, 2010, informed Licensee that Licensee was required to attend a hearing before an Administrative Law Judge of the Washington Office of Administrative Hearings. The Notice of Hearing further informed the Licensee of the time and location of the hearing and set forth an abbreviated statement of the facts upon which the Gambling Commission relied in seeking the penalties set out in the Notice of Hearing. The Notice of Hearing further informed the Licensee that, "If [Licensee] fails to participate in the hearing, the [Administrative Law Judge] may enter a default order revoking [Licensee's] gambling license."
- 3.2 The above-named Administrative Law Judge timely convened the hearing as set forth in the Notice of Hearing. The Washington State Gambling Commission timely appeared through its above-named representative. The Administrative Law Judge waited an additional 30 minutes past the scheduled hearing start time. The Licensee did not appear.
- 3.3 Following the Licensee's non-appearance, the Gambling Commission moved for a default order of penalty consistent with the penalty stated to occur in the Notice of Hearing if the Licensee failed to participate in the hearing.
- 3.4 The Administrative Law Judge considered the files and records in this matter and found no apparent reason why the motion of the Gambling Commission should not be granted. Therefore, the Gambling Commission's motion shall be granted.

4. ORDER

IT IS ORDERED:

- 4.1 This Corrected Order of Default supersedes the Order of Default dated September 16, 2010.
- 4.2 Licensee is in DEFAULT.

- 4.3 Licensee's gambling license (License No. 68-25199) is hereby revoked, effective immediately, subject to further action by the Gambling Commission.
- 4.4 Licensee's Application for Hearing is dismissed.

Signed at Olympia, Washington, October 8, 2010.


Steven C. Smith
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES OF APPEAL RIGHTS

RCW 34.05.440 provides, "(3) Within seven days after service of a default order under subsection (2) of this section, or such longer period as provided by agency rule, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings." By agency rule (WAC 230-17-035 (2)), service is complete three days after mailing of this order; therefore, any motion to vacate a default order must be made within a total of ten days after the date of mailing the default order.

Alternatively, you may file an appeal of this initial order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); see also WAC 230 -17 -030(2), WAC 230 -17 -035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.

Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the Commission. WAC 230 -17 -090(5). If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

If a party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days and render a final order.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of this document upon all parties of record in this proceeding by mailing a copy thereof, addressed as follows, with First Class US postage prepaid.

Signed at Olympia, Washington, this 8th day of October, 2010.

Amanda Turner
Representative, Office of
Administrative Hearings

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